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MARTIN BANGEMANN

Nov 25 8 51 AM '97

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Brussels, 25 November 1997

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Objet:	Letter from Mr Bangemann to Mr Kennrad		

VERY URGENT

IB Docket Nos. 97-142 ✓
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SUSAN BARNETT

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Sir,

On behalf of the European Commission, I am pleased to extend my congratulations to you in your new capacity as Chairman of the Federal Communications Commission. In this era of increasing globalisation of communications networks and convergence of technologies, your new task is clearly a most challenging one. I reiterate my best wishes for the accomplishment of your new assignment.

Over the years, the FCC and the European Commission have developed a close working relationship in the context of our common goal of liberalising and ensuring effective competition in international telecommunications markets. The recent WTO/GATS Agreement on Basic Telecommunications Services is so far the best example to quote in this regard. We look forward to continuing this fruitful co-operation with you.

As the two main promoters of the WTO Agreement, the US and the EU bear a special responsibility to ensure a timely and effective implementation of the Agreement, so that our examples can be followed by our trade partners. We, for our part, are actively engaged in ensuring a timely, effective and fully GATS-consistent implementation of the Agreement by the European Community and its Member States.

In this respect, we would like to seize the opportunity to draw your attention to our concerns regarding the rules proposed by the FCC to implement the WTO Agreement. We expressed those concerns in two *notes verbales* of the European Community and its Member States relating to the Notices of Proposed Rule-Making published by the FCC on June 4 and July 16, 1997 respectively, as well as in several bilateral contacts with FCC and US Government officials. In particular, we have expressed doubts regarding the consistency of the proposed rules with the US general obligations and specific commitments under the WTO Basic Telecommunications Agreement. The US State Department recently replied to our two demarches indicating that it transmitted our comments to the FCC, and assured us that the Department and the relevant agencies of the Executive Branch are carefully considering the European Commission's comments. We certainly appreciate that our concerns have received a very high level of attention in the US Administration and that, in the meantime, we have had the opportunity to further discuss these important issues with you and your colleagues in the FCC.

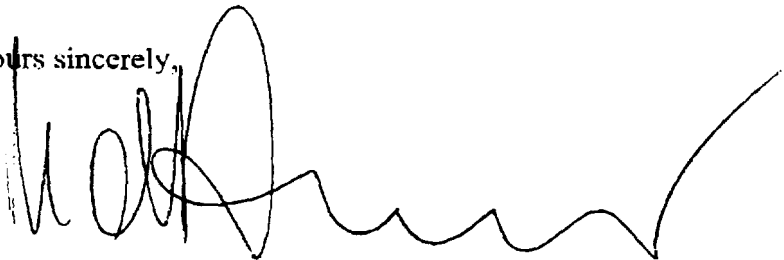
We are aware that the FCC is expected to take a final decision on the rules for foreign participation in the US telecommunications market on November 25, 1997. We do expect that our concerns will be taken into account, so that full compatibility of the FCC rules with the WTO/GATS can be ensured.

However, we have also been informed that the FCC is considering to enlarge the scope of the Order by imposing adherence to the benchmark accounting rates as a condition to grant licences to provide international switched resale services. In line with our earlier comments on the NPRM, we are highly concerned about such an extension of the Order's scope. This would adversely affect several international EU telecommunications operators already operating or wishing to operate in the US market. US customers would not buy long distance services from them if they cannot simultaneously obtain ubiquitous international services. We also have serious concerns in relation to the compatibility of such an extension with the market access commitments undertaken by the US under the WTO Agreement. Furthermore, the imposition of such conditions would also be inconsistent with the general approach taken by the FCC in the 1996 Communications Act, of promoting competition at national level through the encouragement of capacity resale.

Furthermore, I would also like to take this occasion to recall the concerns we have expressed in the *note verbale* of the European Community and its Member States relating to the Order and Further Notice of Proposed Rule-Making published by the FCC on March 13, 1997 on the allocation of spectrum at 2 GHz for use by the Mobile Satellite Service, as well as in the letter of Sir Leon Brittan to the attention of Ms. Charlene Barshefsky of November 12, 1997. We are mainly concerned with the very burdensome relocation costs which would be imposed on MSS applicants in that band. These costs would disadvantage in particular the European-based company, ICO Global Communications, as they would constitute a barrier to market entry that was not faced by the US-based direct competitors of ICO, which have been licensed in the 1.6/2.4 GHz band. We have expressed serious concerns regarding the consistency of this proposed rule-making with the US commitments under the WTO Basic Telecommunications Agreement. Moreover, if a similar approach would now be taken in other countries, prohibitive costs could lead to serious and detrimental consequences for the development of global satellite services.

I hope that these and the concerns previously expressed to you in writing will be taken into account by the FCC. In this way, I trust that we will be able to continue working together in a co-operative manner, with a view to achieving an effective implementation of the WTO Agreement on Basic Telecommunications Services.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'W. E. Kennard', with a long, sweeping horizontal line extending to the right.

Mr. William E. Kennard, Chairman
Federal Communications Commission
1919 M Street NW
US-Washington DC 20554